

Docket No.: WOLFRUM
Serial No.: 09/669,236

REMARKS

This Amendment is submitted preliminary to the issuance of an Office Action in the present application and in response to the Advisory Action of June 3, 2003.

Record is made of an interview between applicant's representative and the Examiner, which took place on May 13, 2003. The Examiner is thanked for his help and assistance as well as for the courtesies extended to Counsel at that time. During the course of the interview the present application was extensively discussed, and as a result, applicant now submits this amendment to place the application in condition for additional review and allowance.

The foregoing amendments to the specification to claim 17 is believed to overcome each and every objection or rejection to the claims set forth in the Examiner's Official Action of January 2, 2003 in which claim 17 was rejected under 35 U.S.C. 102 as being unpatentable over the prior art in EP Patent 0798 388 A1 to Shigehiro.

The claims are drawn up substantially in accordance with the discussions at the interview as to amendments of claim 17. It is believed that claim 17 as presented, would place it in allowable condition. In particular, claim 17 has been amended to recite that light scattered exclusively by DNA/RNA is being determined from the sample. Therefore, the recitation that the sample is free from fluorescent additives appears not necessary and has been deleted. Applicant has also re-presented dependent claims 18, 29 and 20 which were formerly cancelled.

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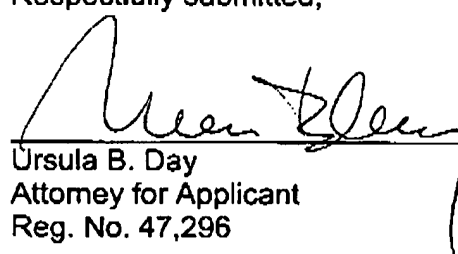
With respect to the formal objections in the last Office Action, applicants state that the filing date of September 25, 2000 of the instant application represents entry into the national phase of PCT/EP99/02242, which is less than 30 months from the filing date of the German priority application i. e. April 1, 1998. The PCT application filed April 1, 1999 names the United States as one of the designated countries. Accordingly, priority of the instant application is hereby established. The declaration by the three inventors show the correct filing date of the German priority application. A copy of the declaration is submitted for the benefit of the Examiner. Applicants have in the meantime requested correction of the official filing receipt. If it aids in the Examiner in the acknowledgment of the correct priority, the correction request will be forwarded upon request.

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

The Commissioner is hereby authorized to charge fees which may be required, or credit any overpayment to Deposit Account No. 06-0502.

Respectfully submitted,

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